

Committee Date	18.03.20	
Address	B G Transco Site Sevenoaks Way Orpington Kent	
Application Number	05/01919/HAZREV	Officer – Robin Evans
Ward	Cray Valley West	
Proposal	Discontinued storage of natural gas (Hazardous Substances Consent Revocation application).	
Applicant	Agent	
Southern Gas Network		
Richard Swain Property Development Manager SGN St Lawrence House Station Approach Horley Surrey RH6 9HJ		
Reason for referral to committee	OUTDEL	Councillor call in: n/a

RECOMMENDATION	Revoke Consent – subject to confirmation that the site operator will not claim compensation and subject to referral to the Secretary of State.
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<p>KEY DESIGNATIONS</p> <p>Areas of Archaeological Significance Biggin Hill Safeguarding Area Biggin Hill Safeguarding Area London City Airport Safeguarding London City Airport Safeguarding Open Space Deficiency Smoke Control SCA 20 Renewal Area Strategic Industrial Location HP Gas Pipe Zone</p>
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Gas Holder Station

Land use Details

	Use Class or Use description	Floor space (GIA SQM)
Existing	Gasworks B2	n/a
Proposed	Gasworks B2	n/a

1. SUMMARY OF KEY REASONS FOR RECOMMENDATION

- The consent is no longer necessary/it is redundant,
- The revocation of the consent would remove a significant potential constraint to future development in the Strategic Industrial Location.

2. LOCATION

- 2.1 The application site is the BG Transco Gasometer Site (operated by SGN), located on the western side of Sevenoaks Way at the junction with Leeson's Way, within the Cray Valley Strategic Industrial Location (SIL). The application site is occupied by three gasometers and ancillary structures and equipment, although it is understood that some of the gasometers are in the process of being decommissioned, purged of their contents, dismantled and removed.
- 2.2 The Health and Safety Executive (HSE) defines sites possessing a Hazardous Substances Consent as a "notifiable hazard" and it sets a consultation zone, with inner, middle and outer zone, around the site requiring the local planning authority to consult the HSE on planning applications in certain circumstances. The presence of the hazard site and subsequent consultation with the HSE may present a constraint to future uses and/or developments taking place within the consultation zone(s) unless and until the hazard is removed i.e. through decommissioning the site and revoking the HSC.

3. PROPOSAL

- 3.1 The Applicant seeks the revocation of the current Hazardous Substances Consent (HSC) by the Hazardous Substances Authority (HSA), which is the local planning authority. According to the application details "gasholders are no longer required for gas storage purposes as advances in technology allow gas pressure to be controlled and distributed within underground pipework. Southern Gas Networks (SGN) has an obligation to dismantle all of its gasholders by 2029". The application details state that the gas holders

have been permanently decommissioned and purged of their contents. As such the gas holders are no longer necessary for the storage of gas, they are redundant, and this is the reason for decommissioning the gas holders and the operator's request to revoke the consent.

4. RELEVANT PLANNING HISTORY

- 4.1 00/01072/HAZSUB – Continued storage and distribution of natural gas was granted a Hazardous Substances Consent on 3 July 2000.
- 4.2 05/01919/HAZSUB – Continued storage of natural gas was granted a Hazardous Substances Consent on 28.07.2005.

5. CONSULTATION SUMMARY

- 5.1 N/A

6. POLICIES AND GUIDANCE

- 6.1 The Planning (Hazardous Substances) Act 1990
- 6.2 The Planning (Hazardous Substances) Regulations 1992
- 6.3 The Planning (Control of Major Accident Hazards) Regulations 1999

7. ASSESSMENT

- 7.1 The main issues to be considered in respect of this application are:
 - The principle for revoking the Hazardous Substances Consent in accordance with the relevant Act(s) and Regulation(s),
 - The possibility of awarding compensation against the revocation of the Hazardous Substances Consent.

Background and procedural matters

- 7.2 As mentioned, changes/upgrades in technology now allow gas to be distributed in pipes and it is no longer required to be stored on sites within gasometers. The gas site operator/owner considers the gasometers are redundant; it is tasked with decommissioning them and must make a written request to the local planning authority, as the Hazardous Substances Authority, to revoke the consent.
- 7.3 However if the consent remains in place, and the hazardous substances authorised by that consent can continue to be lawfully stored at the SGN site, then the HSE would maintain its consultation zone around the site and this could potentially constrain future development in the Sevenoaks Way and Leeson's Hill area which is located within the Strategic Industrial Location (SIL). Only if the consent is revoked can the HSE remove its consultation zone and thereby remove a significant potential constraint to future development in the Strategic Industrial Location; which is identified in the London Plan and the Bromley Local Plan as an area for strategic growth and to meet the needs of new and growing businesses.

7.4 The Planning (Hazardous Substances) Act 1990 allows for a Hazardous Substance Consent (HSC) to be revoked under s.14. The local planning authority, as the Hazardous Substance Authority, can make a revocation Order under s.14 (1) or (2) of the Act. The revocation Order will be subject to confirmation by the Secretary of State under s.15 of the Act (even if it is unopposed). S.16 (1) of the Act makes clear that compensation; which would otherwise be payable for a revocation or modification using powers under s.14(1), is not payable for a revocation if it is made under s.14 (2) of the Act. In the current case the site operator SGN has confirmed that it would not seek compensation and in any event in its opinion the application relates to s.14 (2) of the Act.

Analysis

7.5 The application details state that the site is no longer used for the storage of the hazardous substance (gas) authorised by the consent. Instead it would be contained and distributed under high pressure pipes capable of performing the same function as the gas holders without the need for storing the gas on the land. Furthermore, the gasometers have been decommissioned and purged of their contents and are in the process of being dismantled and removed.

7.6 The site operator has requested the revocation of the consent and confirms that it would not seek compensation under the Act. Furthermore, the revocation of the consent would not risk awarding compensation under s. 14(2) of the Act providing that it meets the following criteria:-

- (a) That there has been a material change in the use of the land to which the HSC relates; or
- (b) Planning permission has been granted and commenced for development of the site and would involve making a material change in the use of the land; or
- (c) In the case of a HSC which relates only to one substance, that the substance has not for at least five years been present on, over or under the land to which the consent relates in a quantity equal to or exceeding the controlled quantity; or
- (d) In the case of a HSC which relates to a number of substances, that none of those substances has for at least five years been so present.

7.7 Officers agree with the site operator's statement that the permanent decommissioning, purging and removal of the gas storage facility would result in a material change of use of the land to which the Hazardous Substances Consent relates; as it would no longer be used for the storage of gas (the hazardous substance), under paragraph (a) above. On this basis it is recommended that the Hazardous Substances Consent is revoked. The accompanying draft Order to revoke the consent shall be referred to the Secretary of State for confirmation.

7.8 Under s.15 (3) of the Act notice of an Order submitted to the Secretary of State must also be served on relevant third parties that may be affected by the Order. The site operator suggests that any other party is unlikely to be affected by the revocation Order however, notwithstanding this; the Council must adhere to s. 15 of the Act in order to confirm the Order.

8. **CONCLUSION**

- 8.1 In view of the above considerations it is recommended that delegated authority is granted to Officers on behalf of the local planning authority, as the Hazardous Substances Authority, to progress the revocation of the Hazardous Substances Consent; subject to confirmation by the Secretary of State.

RECOMMENDATION:

On receipt of confirmation that the site operator agrees that a claim for compensation will not be made, that an order be made under section 14(2) of the Planning (Hazardous Substances) Act 1990 revoking the Hazardous Substances Consent for the B G Transco Site, Sevenoaks Way, Orpington which shall then be referred to the Secretary of State for confirmation.